

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ROW VAUGHN WELLS, INDIVIDUALLY)
AND AS ADMINISTRATRIX OF THE)
ESTATE OF TYRE DEANDRE NICHOLS,)
DECEASED,)
Plaintiffs,)
)
v.) CASE NO. 2:23-CV-02224
THE CITY OF MEMPHIS, A) JURY DEMAND
MUNICIPALITY; CHIEF CERELYN DAVIS,)
IN HER OFFICIAL CAPACITY; EMMITT)
MARTIN III, IN HIS INDIVIDUAL)
CAPACITY; DEMETRIUS HALEY, IN HIS)
INDIVIDUAL CAPACITY; JUSTIN SMITH,)
IN HIS INDIVIDUAL CAPACITY;)
DESMOND MILL, JR. IN HIS INDIVIDUAL)
CAPACITY; TADARRIUS BEAN, IN HIS)
INDIVIDUAL CAPACITY; PRESTON)
HEMPHILL, IN HIS INDIVIDUAL)
CAPACITY; ROBERT LONG, IN HIS)
INDIVIDUAL CAPACITY; JAMICHAEL)
SANDRIDGE, IN HIS INDIVIDUAL)
CAPACITY; MICHELLE WHITAKER, IN)
HER INDIVIDUAL CAPACITY; DEWAYNE)
SMITH, IN HIS INDIVIDUAL CAPACITY)
AND AS AGENT OF THE CITY OF)
MEMPHIS,)
Defendants.)

**THE CITY OF MEMPHIS' MOTION TO RESET APRIL 3, 2024 HEARING AND
INCORPORATED MEMORANDUM**

Defendant City of Memphis ("the City"), by and through counsel, respectfully moves the Court for an Order resetting the hearing on Plaintiff's Motion for Leave (1) To Take a Maximum of Thirty-Five Depositions; and (2) To Conduct Certain Depositions Over the Permitted Seven (7)

Hours (ECF No. 163) from Wednesday, April 3, 2024 at 10:00 am, to another date, based upon the City's counsel's unavailability on April 3, 2024. For grounds in support of this Motion, the City respectfully states as follows:

1. Plaintiff filed its Motion for Leave (1) To Take a Maximum of Thirty-Five Depositions; and (2) To Conduct Certain Depositions Over the Permitted Seven (7) Hours ("Motion") on March 14, 2024. Plaintiff's Motion was referred to the Magistrate Judge for determination on March 21, 2024.

2. The Court, through text order, set Plaintiff's Motion to be heard on April 3, 2024, at 10:00 am via Microsoft Teams.

3. Counsel for the City has an unmovable scheduling conflict on April 3, 2024 at 10:00 am. Specifically, lead counsel Bruce McMullen and co-counsel Jennie Silk are involved in a multi-district class action also pending in the Western District of Tennessee. Mr. McMullen has depositions scheduled in Chicago, Illinois for April 3 and 4, 2024. The matter, *In re AME Church Employee Retirement Fund Litigation*, MDL Docket No. 1:22-md-03035-STA-jay, has ten named plaintiffs, numerous defendants, and dozens of attorneys, making moving these deposition dates and times extremely difficult.

4. Counsel for the City, Jennie Silk, emailed Magistrate Judge Annie T. Christoff's Case Manager, copying all counsel of record, and informed the Court of the counsel's unavailability on April 3, 2024. Further, the City provided the Court with alternative dates, April 8th or 10th, should those dates work for the Court and the parties.

5. In response, Plaintiff's counsel did not dispute its availability on April 8th or 10th and, instead, informed the Court that it opposes resetting the hearing on Plaintiff's Motion because he was not given any notice of any conflicts prior to the email in which he was copied on.

6. The City respectfully requests that the Court reset the hearing on Plaintiff's Motion from Wednesday, April 3, 2024 at 10:00 am, to another date convenient for the Court and the parties.

7. Good cause exists for the City's request. Counsel for the City is quite literally unavailable to participate in the virtual status conference due to his participation in the aforementioned deposition in Chicago.

8. This request is not made for the purpose of delay and no prior request to reset the hearing on this Motion has been made.

9. Based on the foregoing, the City respectfully requests that the Court reset the April 3, 2024 hearing on Plaintiff's Motion for Leave (1) To Take a Maximum of Thirty-Five Depositions; and (2) To Conduct Certain Depositions Over the Permitted Seven (7) Hours

Dated: March 28, 2024.

Respectfully submitted,

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

s/ Bruce McMullen

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*Attorneys for Defendant City of Memphis,
Chief Cerelyn Davis in her Official Capacity*

CERTIFICATE OF CONSULTATION

I, Bruce McMullen, hereby certify that counsel for the City, Jennie Silk, emailed Magistrate Judge Annie T. Christoff's Case Manager on March 26, 2024, copying all counsel of record, regarding the relief sought in this Motion. Plaintiff's counsel, Antonio Romanucci, counsel for Plaintiff, responded in opposition to the relief requested in this Motion.

s/ Bruce McMullen
Bruce McMullen

CERTIFICATE OF SERVICE

I, Bruce McMullen, hereby certify that on March 28, 2024, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, and that upon filing, such system will serve a copy of the foregoing upon all counsel of record in this action.

s/ Bruce McMullen
Bruce McMullen